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Report of the Working Group on the Universal Periodic Review*

Estonia

Addendum

Views on conclusions and/or recommendations, voluntary commitments and replies presented by the State under review

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1. Estonia welcomes the interactive dialogue and the recommendations made during the 2nd cycle of the Universal Periodic Review held in Geneva on 19 January 2016. During the review, Estonia received 181 recommendations. Estonia herewith presents its views regarding the 55 recommendations that were deferred during the adoption of the report of the Working Group on 22 January 2016.

2. **The recommendations formulated during the interactive dialogue and listed below have been examined and enjoy the support of Estonia:**

123.6. Estonia intends to ratify ICPPED. There are no substantial objections to the ratification and implementation of the convention.

123.20.; 123.21. Estonia is consistently reviewing its international obligations in the field of human rights and considering ratification of human rights treaties to which it is not yet a party.

123.29. Estonia is constantly improving its education system to comply with the fundamental values of education, tackle racism and xenophobia at their very roots and build a culture of human rights in the society. The Basic Schools and Upper Secondary Schools Act marks the importance of values arising from the ethical principles specified in the Constitution, the Universal Declaration of Human Rights, the Convention on the Rights of the Child and the fundamental documents of the European Union (EU). Schools shall build up a school culture respecting democratic and human rights values. Within the learning process, human rights are connected with the cross-curricular core competences (value and cultural; social and civic; self-awareness; communication competence).

123.32.; 123.33.; 123.34.; 123.37. Pursuant to amendments of the Penal Code in force since 2015 the definition of criminal organisations includes organisations the activity of which is directed to commit crimes punishable by three years of imprisonment, such as the offence of inciting social hatred in its aggravated form (i.e., repeated offence or the offence of incitement of hatred with a serious result). Thus, establishing organisations, the activity of which is directed to commit the offence of aggravated incitement of social hatred, discrimination or violence, *inter alia* on the basis of race, and being member in such an organisation, is criminalised. Amendments to the provision defining incitement to social hatred are ongoing to extend criminal liability to cases where the offence is not repeated nor causing serious result. Amendments to the Penal Code, aiming to define racist or other hate motive as an aggravating circumstance for all offences, are ongoing.

123.41. This topic is already well-covered by the Penal Code. Amendments to the Code of Criminal Procedure regarding victim protection were enforced in 2016. An amendment to the Penal Code defining domestic violence as an aggravated assault, was enforced in 2015. The Penal Code foresees punishments for crimes such as threat, physical abuse, torture, rape, etc. Domestic violence cases are investigated and proceed according to existing legislation.

To enable better victim protection, the Victim Support Act will be modified in 2016 and from 1 January 2017, new services for victims of violence against women will be described in the law. State-financed Women's Shelter service includes safe temporary housing, crisis counselling, case management, legal and psychological counselling for women who have fallen victims of violence. Estonia intends to ratify and implement the Istanbul convention of the Council of Europe in the near future.

123.46. Pursuant to the Constitution, the family, which is fundamental to the preservation and growth of the nation and which constitutes the foundation of society, enjoys the protection of the state.

123.47. All necessary measures to ensure full participation of all groups of individuals in the political and public affairs of the country have been introduced. The

rights, freedoms and duties of all persons, set out in the Constitution, apply equally to citizens of Estonia and to citizens of foreign states and persons with undetermined citizenship in Estonia.

123.48. Two national integration plans have been carried out in Estonia: Integration in Estonian Society 2000–2007 and Estonian Integration Plan 2008–2013. At the end of 2014, the government approved the Integration Development Plan "Integrating Estonia 2020" and its implementation plan for 2014–2017.

Integrating Estonia 2020 aims *inter alia* to preserve the culture and language of the ethnic minorities, ensure increasing tolerance towards different groups of society and a stronger civic identity.

The development plan supports three broader courses of action: 1) increasing openness of the whole society and making attitudes towards integration more supportive; 2) continuing support for permanent residents with foreign background who have not yet fully integrated into society; 3) supporting adaptation and integration of new immigrants.

123.50. The status and rights of national ethnic and linguistic minorities on the legislative and judicial front as well as in the policy front have been guaranteed by the Constitution and other legal acts.

123.51. The use of Estonian and other languages in Estonia is regulated by the Language Act. In local governments where at least half of the permanent residents belong to a national minority, everyone has the right to approach state and local government authorities and receive responses in Estonian or the language of the national minority. Regardless of the proportion of ethnic groups in the region, ethnic minorities may, with mutual consent, use their mother tongue during oral communication with state authorities and local governments, notary, bailiff, and sworn translator, and also at Estonia's foreign missions. Authorities may accept minority-language documents without translation. All ministries and governmental authorities have Russian and English websites. In language use, local governments take the needs of persons belonging to national minorities into account. In regions with a high rate of persons belonging to national minorities, legal advice and services of the employment office are provided in the respective, Russian, language. Besides Estonian and Russian, public services are also available in English all over Estonia.

123.52. Government pays special attention to promote overall employment. All services that support employment are provided in Estonian and Russian. The Strategy of Integration and Social Cohesion of Estonia sets the target to reduce differences of unemployment rates among Estonians and residents of other nationalities. Special targets and measures are foreseen in the draft Welfare Development Plan. There are measures and investments foreseen in the Estonian Regional Development Strategy and Ida-Viru County Action Plan 2015-2020 to promote economy, create workplaces and improve the living environment in Ida-Viru County. According to the recent integration monitoring, perceptible discrimination at the workplace on the ground of nationality among non-Estonians has decreased from 37% in 2008 to only 12% in 2015.

123.53. Legislation is under constant review and changes will be imposed if considered necessary.

3. The following recommendations do not enjoy the support of Estonia and will be noted:

123.1.; 123.2. Estonia is considering the recommendation to sign and ratify OP-CRC-IC.

123.3.; 123.4.; 123.5. The recommendation to sign and ratify the Optional Protocol to ICESCR is under consideration.

123.7.; 123.8.; 123.9.; 123.10.; 123.11.; 123.12.; 123.13.; 123.14. Estonia does not plan to ratify ICRMW or the ILO Convention no. 189. EU common immigration policy guarantees equal treatment of third country citizens.

123.13.; 123.15.; 123.16.; 123.17.; 123.18.; 123.19. Estonian Government fully supports the campaign launched by the UNHCR and the objectives to eradicate statelessness within the decade ahead. However, Estonia maintains its current position not to accede the conventions of 1954 and 1961 for the time being. The provisions of these conventions are less comprehensive than the rights currently enjoyed by residents of Estonia with undetermined citizenship. Estonia believes that its accession to the 1954 and 1961 Conventions will not provide significant benefits to persons with undetermined citizenship.

123.22.; 123.23.; 123.24. No new institutions are currently planned. The institution of the Gender Equality and Equal Treatment Commissioner has been created in order to help people protect their rights and to avoid any form of discrimination. Among other tasks, the Commissioner also endeavours to ensure that people in various minority groups are not treated unequally.

123.25. Resources of the Gender Equality and Equal Treatment Commissioner, including their sufficiency for planned activities are subject to annual budgetary negotiations. Starting from 2015, the Commissioner has had additional resources for supporting non-discrimination and gender mainstreaming in the use of the EU Structural Funds. Additional resources have been allocated for the Commissioner to fulfil the duties of the independent monitoring mechanism of the CRPD.

123.26. Estonia does not plan to adopt a separate action plan to implement the UN Guiding Principles on Business and Human Rights, but is continuously including these principles in other national plans and relevant documents.

123.27. The Integration Development Plan "Integrating Estonia 2020" and other documents contain indicators that also concern human rights.

123.28. Rules prohibiting discrimination are established by national law. If the rights of a person are violated due to discrimination, he or she has the right to file an application with labour dispute committee or the Gender Equality and Equal Treatment Commissioner or a claim with the court.

The Language Act establishes the basis of requirements for language proficiency in certain positions, which serve only public interests: to ensure that (public) services and information are available in the Estonian language. The language requirements for employment have been developed in cooperation with employers' organisations and take account of the requirements imposed in professional standards. The requirements are also in accordance with the actual character of work and the situation of the use of language. Language requirements are not imposed or applied to the employee on the basis of nationality or mother tongue.

123.30.; 123.31. Estonia supports a broader approach to combating intolerance and currently no separate strategies for combating racism are planned. The "Integrating Estonia 2020" development plan supports the multiculturalism of society and builds on the Estonian Constitution which sets the goal to guarantee the preservation of the Estonian people, language, culture and the right of each individual to preserve his or her ethnic identity. No one may be discriminated on the basis of nationality, race, colour, sex, language, origin, religion, political or other views, property or social status, or on other grounds. Equal treatment is more specifically regulated under the Equal Treatment Act prohibiting

discrimination of individuals on grounds of nationality (ethnic origin), race, colour, religion or other beliefs, age, disability or sexual orientation.

123.35.

123.36. The required levels for language proficiency are reasonable and in accordance with international human rights standards.

The punitive role of the Estonian Language Inspectorate has considerably decreased and is being replaced by a more supportive role. On 1 January 2015 an amendment of the Penal Code and related acts entered into force decriminalising a number of cases where inspectors needed to impose fines. Non-sufficient command of state language is no longer an administrative offence. Language inspectors shall provide adequate and realistic amount of time in the prescription for gaining the level of state language needed in a certain occupation. No punishments were imposed in 2015.

The Inspectorate is flexible in its practice and allows guaranteeing the necessary level of state language in an institution or business also by organisational means instead of replacing a person. E.g. a doctor without a sufficient command in Estonian is accompanied by a bilingual nurse; in a shop an Estonian language client is directed to a sales person who knows Estonian etc.

123.38.

123.39.; 123.40. The Registered Partnership Act entered into force on 1 January 2016. The necessary implementing acts are being processed by *Riigikogu*. The Ministry of Justice is doing everything in its power to facilitate the application of the Registered Partnership Act until the implementing acts are adopted.

123.42. Estonia sees no reason to adopt a separate law on human trafficking. In 2012, amendments were made to the Penal Code defining human trafficking and criminalising all its elements in accordance with international and European standards. The new regulation includes an extensive definition of the concept of trafficking in persons and foresees imprisonment up to 7 years for this crime and up to 15 years in aggravating circumstances. Specific regulation and punishments are also provided for support to human trafficking, pimping, aiding prostitution, and human trafficking in order to take advantage of minors.

Amendments to the Code of Criminal Procedure regarding victim protection were enforced in 2016 and the Victim Support Act was supplemented in 2013 with an additional section that defines human trafficking victims and foresees services for them. The Aliens Act foresees temporary residence permits for foreigners, willing to cooperate in criminal proceedings.

123.43. According to the Estonian Constitution any Estonian citizen who has attained eighteen years of age is eligible to vote. Only an Estonian citizen of eighteen years of age who has been declared by a court to lack legal capacity is ineligible to vote. The Estonian Constitution stipulates that the participation in elections may be circumscribed by law in the case of Estonian citizens who have been convicted by a court and are serving a sentence in a penal institution.

123.44. The Code of Criminal Procedure has been brought to compliance with the International and European standards of rights to translation, and no further amendments are foreseeable.

123.45. Estonia intends to address the issue in the near future. The Code of Criminal Procedure has already been amended to reform the surveillance procedures, with an effect from 2015.

123.49. The local self-government bodies are formed through a democratic process which cannot be influenced by the authorities through quotas or otherwise.

123.54. Estonia's position is that citizenship cannot be forced on anyone and that everyone has the right to choose his or her citizenship. In recent years, Estonian government has implemented various measures to increase the interest of persons of undetermined citizenship in applying for Estonian citizenship. Several legislative changes have been adopted over the years to facilitate naturalisation procedures, especially for children and the elderly.

123.55. International protection proceedings by the Estonian Police and Border Guard Board (PBGB) are guided by international conventions and the EU and national legislation as well as the recommendations and guidelines of the European Asylum Support Office (EASO) and UNHCR.

Applications for asylum can be submitted to border guard officials in any border point at the Estonian state border, if the alien has no valid visa, travel documents nor Estonian residence permit. All applications for international protection are processed by the PBGB on a case-by-case basis and in an objective and impartial manner. Applicants are guaranteed access to legal assistance and translation services as promptly as available.

The PBGB always considers the necessity of each detention case separately and thoroughly but the necessity and proportionality of detention of asylum applicants are assessed by the court. The detention of asylum applicants is justified in cases where monitoring measures cannot be applied efficiently and considering important circumstances, detention is appropriate, necessary and proportional in relation to that person.

The conditions in the detention centre are in compliance with the standards of European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) and with the regulations of the EU directive 2008/115/EC. They are under constant surveillance of the Chancellor of Justice and Estonian Red Cross and open to visits by relevant international organisations.